



**Northern Ireland
Assembly**

**COMMITTEE FOR
FINANCE AND PERSONNEL**

**OFFICIAL REPORT
(Hansard)**

Key NICS HR Issues

22 June 2011

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Conor Murphy (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Judith Cochrane
Mr Leslie Cree
Mr Paul Girvan
Mr Ross Hussey
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Ms Caitriona Ruane

Witnesses:

Mr Mark Bailey) Department of Finance and Personnel
Mr Derek Baker)

The Chairperson:

The Committee will now hear evidence on key NICS HR issues. We are joined by Derek Baker and Mark Bailey from the Department of Finance and Personnel (DFP). They will give us an update on the Senior Civil Service (SCS) pay review and on sickness and absence in the Civil Service. In members' packs, there is a response to the previous Committee from the Minister regarding Senior Civil Service pay; a response to the Committee regarding equal pay issues; a Northern Ireland Public Service Alliance (NIPSA) response to the Committee regarding equal pay issues; and correspondence on equal pay issues. You are very welcome. I ask you to kick off with your presentation.

Mr Derek Baker (Department of Finance and Personnel):

Good morning, Chair. The Committee wants me to deal with a number of issues. I will pick up on Senior Civil Service pay first. The Department has communicated with the Committee on that issue. You are aware that, last year, the Minister received the report of a review on Senior Civil Service pay from the Senior Salaries Review Body (SSRB). It proposed fairly radical changes to the pay structures for senior civil servants. The Committee was good enough to submit views on that report. Views were also submitted by the two main Civil Service unions, NIPSA and the First Division Association (FDA).

In considering all of that, the issue got caught up in Budget issues and the Executive's deliberations on public sector pay, public sector pay restraint, and, specifically within that, Civil Service pay. In considering Civil Service pay, the Minister decided to follow the policy of a two-year pay freeze. He applied that generally to Civil Service pay awards, although there was provision for pay progression for staff below the Senior Civil Service. He decided to apply an absolute pay freeze to the three most senior grades in the Civil Service. That means that the pay that staff in those grades were on in April 2009 will continue through 2010 and 2011, until March 2012. In the context of that pay freeze, the Minister decided not to engage in any radical restructuring of SCS pay, which, by definition, would probably have required some investment or additional money — certainly if the SSRB's report's core proposals were accepted.

The two-year pay freeze is in place. In theory, we will exit that in April 2012. Shortly before the Assembly election, the Minister asked me to revisit the SSRB report and the various comments that have been received and to come back to him in due course with proposals for what might be done, taking account of those comments. That is a work in progress. I have not yet gone back to the Minister. I am sure that the Minister will wish to engage with the Committee again as he develops his thinking, given the Committee's interest in SCS pay.

The Chairperson:

Thank you. Is this restricted to senior civil servants? Does it read across to arm's-length bodies or other agencies at a remove from Departments?

Mr Baker:

It is restricted to the three most senior Civil Service grades. It would read across to arm's-length

bodies only to the extent that those bodies, either of their own volition or because they are required to in the financial memorandum or relationship statement between themselves and their sponsoring Department, follow SCS pay arrangements. As you are probably aware, a number of arm's-length bodies opt to follow Civil Service pay arrangements. Often, it is discretionary. Some are obliged to follow those arrangements. Any decisions that the Minister takes apply specifically to those three grades only.

The Chairperson:

Therefore, it is optional or discretionary for arm's-length bodies, which means that the imperative behind setting a freeze on salaries, which was to set a standard and show that the Executive are responding to the economic downturn, is restricted. Unless arm's-length bodies opt into it voluntarily — bearing in mind that some of those salaries are based on the reality of life five or six years ago and the money that such organisations and the people in them attracted then — they can continue in that other world of inflated salaries. Therefore, the statement that the Executive are making through the Department of Finance and Personnel by capping Senior Civil Service pay is a limited one.

Mr Baker:

The Executive are not without control in the matter. Any pay proposal for an arm's-length body must be the subject of a business case, which comes, first, from the arm's-length body to the sponsoring Department and, then, from the sponsoring Department to the Department of Finance and Personnel. It is not my side of DFP; it is the central expenditure side of DFP. It takes receipt of all business cases for all pay awards in all public sector bodies and approves or rejects those. Therefore, the Minister of Finance and Personnel has considerable influence over pay awards. You are right: there are a number of arm's-length bodies, which are probably tied contractually into pay arrangements and which have a "Made in Great Britain" stamp on them. The Northern Ireland Housing Executive, for instance, is tied into local government pay scales, and many Health Service employees who work in health and social services bodies, trusts and boards are tied into national agreements on Health Service pay, Agenda for Change, and so forth.

The Chairperson:

Therefore, rather than the Finance Minister, on behalf of the Executive, being able to apply a policy that goes uniformly across the Senior Civil Service grades, in that case it is done on an individual-by-individual basis. When that contract runs out and turns up for renewal, the Finance

Minister can have the say on that. It is not an even application of policy.

Mr Baker:

That is correct.

The Chairperson:

Does anyone wish to ask a question on Senior Civil Service pay?

Mr McQuillan:

Is the Senior Civil Service bonus system still in operation? What is happening there? Has it been frozen?

Mr Baker:

That was abolished in 2009 and has not been paid since. It is still paid in the Senior Civil Service in Great Britain, but bonuses have gone here.

Mrs Cochrane:

My question does not relate to the Senior Civil Service, but to the remainder of the Civil Service. Was the reason why the pay progression was not taken out to do with trade union negotiations? Would the trade unions not have bought into that, so that everybody would have had an actual pay freeze? It is very emotive. We have had a pay freeze, but they have had one pay freeze. They have not had the other pay freeze, if you know what I mean.

Mr Baker:

Historically, the pay arrangements for staff below the Senior Civil Service grades, of which there are about 25,000 non-industrial staff, have had pay progression built into them. The Executive had to take a decision as part of their consideration of public sector pay on whether to permit pay progression to be included in the two-year pay award. You are absolutely right: the trade unions vehemently opposed the removal of pay progression, and I think that they lobbied all MLAs very hard. NIPSA lobbied all MLAs very hard on the issue. The Executive eventually decided to allow for pay progression for those staff. Pay progression is not part of the pay arrangements for senior civil servants; that is why they do not get it.

The Chairperson:

Do you want to move on to other issues that you were looking at?

Mr Baker:

I will deal with sickness absence, if you are content, Chairperson.

The Chairperson:

Can you deal with equal pay first?

Mr Baker:

Yes. Equal pay is a very complex issue. I think that the Committee has received a detailed report on it, so I will not run through that. I know that some Committee members have been round this course several times in the past.

When we negotiated the equal pay settlement with NIPSA, we were negotiating to remove from the industrial tribunal about 4,500 cases and the other cases that inevitably would have come in on the back of that. The settlement that was negotiated with NIPSA, approved by staff in a ballot, approved by the Minister and, ultimately, approved by the Executive, related only to staff who were within the boundary of the source of pay that comes from DFP. We were very clear at that time that it did not include arm's-length bodies and staff in the then Northern Ireland Office (NIO) who had pay delegated to them in 1996 and who had their own pay and grading arrangements. The NIO staff included staff in associated bodies, such as the PSNI, the Court Service — which is outside the scope of the Northern Ireland Civil Service (NICS) — and the Public Prosecution Service. That was the position, and that remains the position.

Inevitably, with an issue like this, many groups of staff see what happened in the Northern Ireland Civil Service and say, "I would like some of that too." However, our position was not taken on the basis of a whim; it was taken on the basis of very sound legal advice. The policy that has been adopted in relation to other groups is that there was a separate source of payment for those pay groups; therefore, there is no legal entitlement to the equal pay settlement that we negotiated with NIPSA.

NIPSA accepted that at the time, and it signed the agreement. Needless to say, other groups have lobbied hard and have lobbied directly to the Minister. I know that they have lobbied the

Committee and MLAs, but the Minister has adopted his policy stance and adhered rigidly to that in the face of all approaches that have been made to him. His position is based on a clear legal understanding.

Single source goes right to the heart of the concept of equal pay. If we step outside that legal framework and concept, it is a free-for-all, because anybody in any organisation could compare their salary with that of anybody in another organisation, even though there is a totally separate source of pay. That is the rationale that has underpinned our decisions to date on the policy stance for PSNI staff and former NIO staff.

Another group of disaffected people is those who retired from the Civil Service before August 2008, and I know that they have lobbied the Committee very hard. I was in front of the Committee in, I think, January to speak on the issue. They feel that they have been excluded unfairly from the equal pay settlement, and I understand their disgruntlement. However, that decision is again based on the clear legal position that you cannot take an equal pay claim against your employer if you have been retired for more than six months and have not submitted a claim within that time. The Minister has held rigidly to that position, and that is the policy stance now. The consequence is that there are many disgruntled groups out there, and they probably continue to lobby the Committee and the Minister.

Some of those groups have legal cases under way. Two individuals who retired prior to August 2008 and were excluded from the equal pay settlement took an equal pay case to an industrial tribunal. The tribunal rejected the case on the grounds that the claim had timed out. Therefore, if you like, the industrial tribunal upheld the stance that we have taken.

NIPSA, as a trade union, is sponsoring a number of breach-of-contract cases — not equal pay cases — on behalf of staff who had served in the then NIO and the PSNI. Those cases are in the High Court now and are in their very early stages. We have issued notices for better particulars, which I think is the technical term.

Mr Mark Bailey (Department of Finance and Personnel):

It is further and better particulars.

Mr Baker:

That is simply asking for more information, because we do not know the basis of the cases. We have issued a notice of our intention to defend those cases. We are liaising closely with the Department of Justice (DOJ), the PSNI, the Crown Solicitor's Office and our Departmental Solicitor's Office. There are legal cases in play, and, ultimately, it may be for the courts to decide on those issues.

The Chairperson:

Apart from the people who had retired, for which there has already been a judgment, albeit an industrial tribunal judgment, are you suggesting that those other groups are not entitled to equal pay at all or that they are only entitled to equal pay if their employing organisation makes a particular case for that?

Mr Baker:

It is interesting. The cases of former NIO and PSNI staff who were excluded from the terms of our settlement are totally different from those of staff who lodged equal pay claims at an industrial tribunal but are based on breach of contract. The staff concerned are claiming that their then employer — that is, the NIO or the PSNI — was somehow in breach of a contract by not awarding them the same kind of pay that staff in the NICS subsequently got when the settlement was applied retrospectively. That takes us into totally new territory that is outside the bounds of equal pay. It is about breach of contract, and I have no idea where the courts will go on that. The issues are not clear, because we have not got those better and further particulars that we need to understand the basis of the cases.

The Chairperson:

What about people who were TUPE-ed (transfer of undertakings protection of employment) out? Are they entitled to retrospective conditions that would have applied had they stayed where they were? Who makes the case for those people? Is it the new employing organisation? If the employing organisation does not make a good enough case, are those people left hanging in the wind?

Mr Baker:

A case in point is Northern Ireland Water (NIW). Staff were transferred out — TUPE-ed out —

in, I think, 2007, and the legal advice that we have is that those staff are excluded from the terms of the equal pay settlement because they were TUPE-ed across to the new organisation outside the NICS before the cut-off date of August 2008. It would be for NIW to present a business case to the sponsoring Department if it felt that, on whatever grounds, it wanted to make a payment to staff. A number of arm's-length bodies outside the Civil Service submitted business cases to their sponsoring Department to apply elements of the equal pay settlement, but, by and large, that has focused on assimilating staff to the new Civil Service pay scale.

Therefore, going forward, it is really about pay. Very few bodies submitted a business case attempting to argue that the lump-sum payment should be applied to their staff retrospectively. I know that the Assembly applied the lump-sum payment to its staff retrospectively, but I think that that was an act of generosity and not based on an equal pay claim. No other arm's-length body has applied the equal pay settlement. I think that one body submitted a business case that was rejected, but no others have.

The Chairperson:

Was it rejected on the basis that it was trying to go for a scheme equal to that in the Civil Service?

Mr Baker:

Yes. It was rejected on the basis that there was absolutely no rationale for arguing that the compensation lump-sum payment should be paid to its staff.

The Chairperson:

It seems to be a very unsatisfactory situation.

Mr D Bradley:

The correspondence from the Department, which you seem to know almost verbatim, states:

“The concept of ‘single source’ of pay decisions goes right to the heart of issues surrounding equal pay.”

That is exactly what you said earlier. It goes on to state:

“Any departure from that concept steps outside the known legal framework”.

What is the legal framework?

Mr Baker:

If an individual who is paid at a certain rate considers that another individual or group comprising predominantly one gender or the other is doing a job of equal value or a job that is rated as

equivalent, and there is no rational reason or justification for that other individual or group getting paid more, he or she may be able to take an equal pay claim. The important point is that the decision-maker for both pay rates must be the same. Consequently, if one decision-maker is guilty of the anomaly, the person who wants to make the claim can say that the decision-maker is responsible for deciding to pay him or her less and the other person more or that there is a gender discrimination issue for which there is no rational justification. However, if there are two decision-makers, an individual in, say, organisation A cannot compare himself or herself to an individual in organisation B.

Mr D Bradley:

Even though the individual might have the same conditions of service?

Mr Baker:

Yes. For instance, I cannot compare myself to somebody or a group of staff working in the Health Service, because it has totally separate pay arrangements and decision-making arrangements that determine pay. Therefore, there could never be an equal pay claim from one organisation to another. You cannot jump the boundaries.

Mr Cree:

As a former member of the Policing Board, I am very much aware of and have a lot of sympathy for PSNI civilian staff. The difficulty is that those people considered, and probably still consider, themselves to be civil servants. As you state in your report, a pay delegation was granted to the NIO. Therefore, those people are taking breach-of-contract cases. Is that the only action in which they are currently involved?

Mr Baker:

First, I have to say that I, too, have sympathy with the staff. I understand why they are disgruntled, and they are civil servants. We have had a lot of engagement with the Department of Justice and the PSNI on the issue. We dug out all the files and paperwork and gave them to PSNI lawyers and Departmental Solicitor's Office lawyers, and we asked them to go through them to establish whether there had been a pay delegation.

Mr Cree:

What happened?

Mr Baker:

Their objective conclusion was that, yes, there had been a pay delegation. The PSNI might not have exercised it actively, but there was a pay delegation, and it was never rescinded.

I will go back to your specific question. Breach-of-contract cases are under way, they will play out, and we will see what the courts decide. However, in parallel with that, we have talked to the PSNI and the DOJ. If, within the boundaries of the PSNI, and among all the staff who were employed there, there had been an equal pay vulnerability during that period, a case could be made.

I will give you a specific example. If, within the boundaries of the PSNI, as was the case in the Civil Service, there was a technical grade person with a pay lead — who was getting paid more — and there was no rational or objective justification for it, and there was a gender difference between the technical grades and the other staff, PSNI staff could make an equal pay claim. That would be a matter for the PSNI and the Department of Justice.

There is no philosophical objection, in principle, on the part of DOJ or, indeed, on the part of DFP, which is totally agnostic in the matter, to consider such a case if it were made. However, the case has not been made, so there is something to play for there.

The Chairperson:

Who is responsible for putting the business case together?

Mr Baker:

The PSNI.

The Chairperson:

Therefore, the employing authority has to put together the case for its disgruntled employees?

Mr Baker:

It does.

The Chairperson:

That leaves them in a little bit of a tenuous position. Although the money to cover the employing authority's costs comes from a different source, if I were a disgruntled employee, I would not be entirely happy to rely on the employing authority to present my case for me.

Mr Cree:

I will add to that. By coincidence, I was on the Police Authority in 1997, so I missed all this here, but during that period there was no doubt that those people considered themselves to be civil servants working through the NIO on secondment.

Mr Baker:

It was the same for staff who worked in the NIO at that time. Many of them were on secondment from the NICS, but the fact was that, in 1996, pay was formally delegated to the NIO. There are letters of delegation saying, "Over to you." The NIO held its own pay negotiations with the trade unions and had its own separate pay award every year, which could have differed from the NICS pay awards. Indeed, in some cases, it had its own grading arrangements; it changed grading structures. The legal advice concluded that that amounted to a separate source of pay. The staff did their own negotiations. They were, of course, civil servants. I fully accept that, but they were under a different pay regime. That is the kernel of the legal issue.

I will pick up the Chairperson's point about the employer having to make the case itself. I should not speak for the PSNI, but I will suggest that there is a disposition among management in the PSNI to have a willingness to make the case and to have a great deal of sympathy with its employees who are disgruntled about the matter. In many respects, however, it was not much different from the NICS having to make the business case to make the equal payments to its own staff. I had to make that business case to the Minister of Finance and Personnel, and, ultimately, he had to make it to the Executive.

A huge amount of money was paid out. Once we had gone through all the evidence and this thing hit, I have to say that it was shock, horror time. I fell off my chair. It was the worst thing that could have happened. The amounts of money involved were mind-boggling. We had to dive into all the evidence and get all the legal advice that we could, but when we had done that, and it was all pointing inexorably in one direction, we had to sit down and write the business case. We got it through the various approval hoops, through the Executive, and we paid it.

I think that there is a willingness on the part of PSNI management to work with the grain on this matter.

The Chairperson:

It is not just the PSNI that we are referring to. There are a number of employing authorities.

Mr Baker:

I know. I should not speak for DOJ, but I have to say that it is not philosophically opposed to the issue either. Really, it is all about having the basis of a case on which to justify an equal pay award. That basis does not seem to exist as we speak today.

Mr McLaughlin:

We have been back and forward over this, Derek. What concerns the Committee, and MLAs generally, is that, although progress is being made to resolve the issue for the substantial cohort — clearly, a great deal of hard work has gone into that — groups have, nevertheless, emerged that were left out of the deal. Some of them are indentified in the papers provided. The question that arises is not so much about a strict legal definition, although I understand that you have to take account of legal advice. When was the equality legislation enacted?

Mr Baker:

I believe that it was brought into operation in 1975.

Mr McLaughlin:

I am not so much concerned with the date as I am with the point that I am making. There was a considerable lag between the legal imperative being established and its application.

Mr Baker:

Yes.

Mr McLaughlin:

OK. At the time of their departure and the final processing of their outstanding pay, benefits and so on, were people who had worked in the Civil Service and had left for various reasons, some of which emerged in dealing with those cases and anomalies — health reasons, redundancy or

whatever — given formal advice that they would need to lodge an appeal?

Mr Baker:

No. Do you mean any staff who retired at any time? When staff walked out the door —

Mr McLaughlin:

I mean staff whose departure was subsequent to the enactment of the legislation.

Mr Baker:

No.

Mr McLaughlin:

Therefore, if some people missed the six-month deadline and would be held accountable for that under the current approach, the situation is that they had actually left the Civil Service and, no matter how many years of faithful service they had given, nobody in management had thought to tell them that, by the way, they would need to lodge a claim within six months or they would lose their entitlement.

Mr Baker:

Do you mean anybody who has left the Civil Service at any period since 1975?

Mr McLaughlin:

We will not go back that far under the terms of the deal. What I see appears to be almost a Taliban approach. Those people worked in the Civil Service. They provided valuable, faithful, loyal service. When they left, an outstanding issue was in the pipeline. Perhaps at that stage and from their perspective, they had given up hope that that legislation would ever be enacted. Anyway, it did come on the agenda. In fairness, the Assembly put it on the agenda. It has been dealt with to a large measure. I would like to see a less legalistic perspective. Let us deal with the human element. Having made their contribution, those people have been left feeling victimised.

Nobody has told me that we cannot go down that road because it would bust the bank. There are time frames and parameters within it. No one has worked out whether we are talking about 400, 1,000 or 12,000 people. If that were quantified, would it not be possible to resolve those

issues? Is it not possible that we will end up dealing with those issues at some stage? I suspect that they will not go away.

I come from a trade union background. I have a strong sense that there was a duty of care when people were leaving their employment, not only to tidy up 99.9% of their affairs but 100% of their affairs, which included giving them a little note that said that, by the way, if they had any interest in the equal pay legislation, they would need to register their interest within six months. If an industrial tribunal got the opportunity to pronounce on that, I wonder what it would make of it. It seems to me that there was a duty of care right up to the point at which those people left the employment of the Civil Service.

Mr Baker:

OK. You raised a number of points. On your final point, an industrial tribunal has pronounced. It ruled two specific cases out of time.

Mr McLaughlin:

I agree that they are out of time. I am not disputing that. Perhaps that is why the union is taking a different approach now. It is looking at contractual —

Mr Baker:

The union is not taking a different approach over people who have left. It actually signed up to that agreement. People who leave could take action against their employer for all kinds of reasons. You could get to the position where, as people retire and walk out the door, we give them a piece of paper and tell them that if they want to take an equal pay claim, a health and safety at work claim, an age discrimination claim, an industrial injury claim, a discrimination claim or a victimisation claim, they need to make sure that they get their claim in quickly, within so many weeks, otherwise it will not be valid. I do not think that would be a sensible stance for an employer to take. However —

Mr McLaughlin:

I do not see it that way at all.

Mr D Bradley:

The issue was current at the time. One of those —

Mr McQuillan:

It was in the pipeline.

Mr McLaughlin:

The impression is given that the Department was acting illegally. There was a legal requirement from a very early stage, which it was not applying. It only got around to it in its own good time.

Mr Baker:

The issue crystallised as an equal pay issue for us only after NIPSA had lodged its claims.

Mr McLaughlin:

If it had not done that, it might never have —

Mr Baker:

That is right. Indeed, the issue was a comparison with a group of staff who were technical grades. They were typically people who work in MOT centres inspecting cars. I am getting into the legal arguments here, but if it had been established that there was a rational justification for those mechanical staff poking around under cars having a pay lead over staff who were delivering social security benefits, for example, there would have been no equal pay issues. The lawyers went into that. However, the issue did not really crystallise until 2008.

You mentioned quantification. If you go back more than six months, which is the legal framework, there is no rationale for stopping at any period. You could say that we will go back a year or two years, but staff who have been out for two years and one month will ask why they are not included. You could go back six years, and that would become part of the legal framework for calculating the amount. Between August 2003 and August 2008, 8,760 staff left the affected grades. That gives you some idea of the quantification if you wanted to go back six years. That is just over half of the number of staff who were included in the lump-sum payment — it was just under 16,000.

It is the crudest of crude, back-of-an-envelope calculations, but the lump-sum payments in total will amount to somewhere around £130 million, so you could be talking £60 million or £70 million. That is the kind of quantification that would be used if you wanted to apply that lump-

sum payment to all the leavers on the same terms. I cannot be held over that figure. There are 8,760 individual calculations, so I do not know what it would come out at, but you can see where that goes. There is no rationale for stopping even at six years. You could go back 10 years or 20 years, and it is an open chequebook.

Mr McLaughlin:

I understand that you are not in a position to go too far down that road, so I am not going to press you, but I think that quantification would at least allow a pragmatic option to be explored, which people would regard as a fair and equitable response to an anomaly that had emerged. It might be a one-off gratuity payment. It might not be on the same level as those who fell within the terms of the settlement, but an awful lot of people are involved. I do not know that it comes down to pounds, shillings and pence for all of them. It could just be that they feel that they have been written off, and, tough, they did not lodge their claim, so we cannot consider it.

The figure of £120 million is a huge sum of money, but had we perhaps taken more care to ensure that they knew that they must do that, and had they been given the opportunity to record an interest and it had doubled the quantum, we still would have had to meet that legal responsibility. We are dealing with a legal responsibility, not a legal technicality.

Ms Ruane:

To follow on from what Mitchel said, I can refer to something that happened in education, from which lessons can be learned. As you will know, some classroom assistants came under certain agreements depending on who they were employed by. They got one-off payments and other payments, which was their due. Those people are generally at the bottom of the pile when it comes to pay, and an awful lot of them are women. In one sector — the grammar sector — which had its own employing authorities, classroom assistants did not come under the agreements. They were looking for money, and yet, once the agreements and everything else were reached, they were told that they did not come under it. As Minister, I could have said, “Legally, you are not entitled to it, so tough.” However, we did not. We said, “No. They should be entitled to it.”

Going back to Conor’s point, leaving it up to the employing authority gives too much authority to employers and not enough to trade unions. You are letting employers decide. The grammar schools were never going to bring a claim, because that would have meant that they lost

money. Whether it is the PSNI or whatever, employers generally do not want to pay out money. We need to be very careful to respect the rights of, in particular, our lower-paid workers and our women. A more pragmatic, flexible approach needs to be taken.

Mr Baker:

I fully understand staff's disgruntlement. When I was before the Committee in January dealing with the retiree issue, a group of retired civil servants were there. I worked with many of those people and many are friends of mine, so I understand the difficulty of this issue. I understand entirely the point that you are making. Any change to the approach taken towards groups of staff will be a policy decision for Ministers. The Minister of Finance and Personnel has adopted his position on the issue and adhered to that position. Many representations have been made to him by trade unions, groups representing those people, and the individuals themselves, and he has adhered to his position. You will understand that I have to take my policy lead from the Minister. That is the position that obtains at present and will do until Ministers take a different policy decision.

The Chairperson:

As Mitchel asked, has that been quantified at any stage? Has an options paper on full payments, gratuity payments or whatever ever been presented?

Mr Baker:

That has not been done. It is very difficult to work out what individuals would get. We have to go through a process. We set up a website, and individuals have to log on and give us details of their service, length of service and grades.

The Chairperson:

It would create an expectation in itself.

Mr Baker:

We had to do that for 15,900 people to work out how much the payment would be. You are absolutely right to say that to start inviting individuals who are not included in order to work that out would create an expectation that there would be a payment.

Mr Hussey:

I am glad that Mitchel and I are now both confirmed unionists, although it was trade unions that we belonged to. I, too, was very active in the trade union movement. It is a pity that Mitchel has already gone and I cannot get that dig in.

Ms Ruane:

We will tell him.

Mr Hussey:

I am sure that you will. I agree with Mitchel that the line in the sand that seems to have been drawn is the wrong line. A line had to be drawn somewhere, but at six months is the wrong line.

I heard gratuities mentioned. I was involved in the gratuity for the RUC Reserve. Let me tell you: given the way that Her Majesty's Revenue and Customs (HMRC) have treated that, it will make a total hash of this if it gets involved. If there is to be a payment, make sure that it is a gratuity and a tax-free figure that will not be messed about by HMRC. Make sure that expectations are not set and the rug then pulled out from under people.

It is unfortunate that I had to step out of the meeting, because I missed the comments about PSNI staff and about who is responsible and who is not responsible. Whoever is responsible should sort it out. Those people worked in situations that a lot of ordinary citizens, whether from the Republic of Ireland or mainland Great Britain, would never work in. Those people deserve our support and any entitled backdated payment as soon as possible.

Mr Baker:

I will comment on the issues of the lump-sum payment, the gratuity and taxation. When we arranged to make lump-sum payments to staff, we had engaged with HMRC beforehand. We agreed a deal with HMRC that we would pay a notional amount of income tax and National Insurance associated with the lump-sum payments so that everything that a member of staff received by way of a lump-sum payment was net of any tax or National Insurance, and the amount that they were to get was the amount that they actually got.

Mr Hussey:

It is interesting that you say that, and we may come back to you on it to do with another issue. It

is interesting that Her Majesty's Revenue and Customs was prepared to accept a notional figure. In other circumstances that I am dealing with, Her Majesty's Revenue and Customs will not accept a notional figure. Perhaps that has not been put to it by the Department of Justice, but that is another approach for another day. However, that is an interesting comment that I will follow up on.

Mr Baker:

I should say that it was not a finger-in-the-air figure.

Mr Hussey:

I accept that it was not a finger-in-the-air figure. To use one of your earlier comments, it was not the crudest of crude calculations. We have already had a situation in which someone decided that eighty acres of land was worth £200 million, so we know how those sorts of figures are arrived at.

The Chairperson:

Thank you. We are struggling to hold a quorum, and we are well beyond our time. I suggest that we deal with the sickness issue at another date. NIPSA has made representations, and, if members are content, I suggest that we invite NIPSA to the Committee.

It has been a useful discussion, but there is a lot more to talk about on this issue. Thank you very much.